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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,986	04/20/2001	Andreas K. Nielsen	35303.00003	3116

7590

03/31/2003

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EXAMINER

ANDERSON, GERALD A

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/839,986

Applicant(s)

NIELSEN, ANDREAS K.

Examiner

JERRY A ANDERSON

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 13, 19 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4, 9 and 16-18 is/are allowed.
- 6) ☒ Claim(s) 1, 5-8, 10-12, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Figures 4 and 5 in Paper No. 9 is acknowledged and the traverse of Groups I and II has been considered and withdrawn at this time. Applicant's election without traverse of the apparatus is acknowledged. Claims 19 and 20 have been withdrawn from consideration because they are drawn to a method of exercise and claim 13 is withdrawn, at this time, as not drawn to the elected Figures 4 and 5.

### ***Information Disclosure Statement***

The information disclosure statement complies with 37 CFR 1.98(a)(1), listing of all patents, publications, or other information submitted. However, the date provided should be at least the month and year of publication in the form MM/YYYY. The day of the publication can be omitted.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 10, 11, 14 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Disch. Disch is cited showing a combination of deployable exercise

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equipment with storage space in a desk or office furniture, see Figure 1 which shows a cover over the exercise equipment compartment, and discloses in col. 1 that this office furniture is designed for other tasks including a desk for computer workstations.

Therefore the other covered compartments of the desk of Figure 1 can be said to enclose computer equipment and since both the computer equipment and the exercise equipment require electricity it follows that at least one orifice between compartments is inherent to the furniture. The compartment covers shown by Disch are equivalent to the claimed doors.

### ***Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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Claims 5-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Disch as applied to claims above, and further in view of Niebojewski and Densmore. Disch fails to show an exercise bench or barbells in a module or a surface supporting a monitor. Niebojewski is cited showing furniture 10 with doors covering a storage space having an exercise bench, barbells and rails, col. 1, lines 60-65 for the purpose working out. Densmore is cited showing that enclosures can be a surface 152 supporting a monitoring. Since the references are from the same field of endeavor the purpose of Niebojewski and Densmore would have been obvious in the pertinent art of Disch at the time of the invention it would have been obvious for one having an ordinary skill in the art to have modified Disch with an exercise bench, barbells and rails, col. 1, lines 60-65 for the purpose working out in view of Niebojewski and with a surface supporting a monitoring device in view of Densmore.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holland

***Allowable Subject Matter***

Claims 2-4, 9 and 16-18 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Anderson whose telephone number is 703 038 2202. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703 308 24668. The fax phone numbers for

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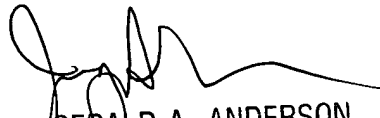
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the organization where this application or proceeding is assigned are 703 305 3597 for regular communications and 703 306 4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 2197.

Jaa  
March 24, 2003



GERALD A. ANDERSON  
PATENT EXAMINER